



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office
HC 33 Box 33500
Ely, Nevada 89301-9408



IN REPLY REFER TO:

4160 (NV-047)

APR 17 1996

Kathy Barcomb
Commission for the Preservation
of Wild Horses & Burros
255 West Moana Suite 207A
Reno, NV 89509

Dear Kathy:

As per your request during our recent telephone conversation, enclosed is a copy of the Stipulation For Dismissal Of Appeals NV-04-95-04 and NV-04-95-05. Also enclosed are copies of Duckwater Cattle Company's licensing record for 1995 showing that licensed use dating from 9/1/95 was in accordance with the Full Force and Effect Multiple Use Decision for the Duckwater Allotment. Please remember that the grazing year runs from 3/01 to 2/28 and that the Full Force and Effect decision was issued June 9, 1995. The license for Duckwater Cattle Company was not adjusted until after that date. Thank you for your continued participation in the multiple use decision process. If you have any questions please contact Mark Lowrie, range conservationist, at (702) 289-1888.

Sincerely,

Gene L. Drais
ADM - Nonrenewable Resources

- 2 Enclosure
1. Stipulation For Dismissal
 2. Licensing record (10 pp.)

MLowrie:ml

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

Duckwater Cattle Company,)		
)	NV-04-95-04	NV-04-95-05
Appellant.)		
vs.)	Appeal of Area Manager's Notice of Final Force and Effect Multiple Use Decision for the Duckwater Allotment, dated June 9, 1995, Egan Resource Area, Ely District, Nevada.	
Bureau of Land Management,)		
Respondent.)		

STIPULATION FOR DISMISSAL OF APPEALS NV-04-95-04 AND NV-04-95-05

The parties to this action hereby stipulate that the above captioned appeals may be dismissed on the following terms and conditions:

The Bureau of Land Management (BLM) will administer the Duckwater Allotment in accordance with the June 9, 1995 Final "Full Force and Effect" Multiple Use Decision, with the following modifications:

1. The section of Page 8 of the Decision titled "Permittee: Duckwater Cattle Company" is revised to read as follows:

"From:	<u>Total AUMs</u>	<u>Suspended Non-Use</u>	<u>Active Preference</u>	<u>Exchange of Use</u>	<u>Season of Use</u>
	10,565 (C)	4,186	6,379	0	03/01-02/28
	66 (S)	0	66	0	03/16-09/30
To:	<u>Total AUMs</u>	<u>Suspended Non-Use</u>	<u>Active Preference</u>	<u>Exchange of Use</u>	<u>Season of Use</u>
	10,565 (C)	6,256	4,309	736	03/01-02/28
	66 (S)	0	66	0	03/16-09/30

Cattle Authorization for Duckwater Cattle Company will be as follows¹:

800	Cattle	03/01 - 03/14	368 AUMs	Exchange of Use
800	Cattle	03/15 - 05/15	1631 AUMs	Active Preference
800	Cattle	05/23 - 06/20	763 AUMs	Active Preference
800	Cattle	09/19 - 09/30	132 AUMs	Active Preference
695	Cattle	11/15 - 01/31	1783 AUMs	Active Preference
800	Cattle	02/15 - 02/28	<u>368 AUMs</u>	<u>Exchange of Use</u>
		TOTAL	4309 AUMs	Active Preference

¹ See also "Management and Rotation" provision of this agreement.

Management and Rotation of Cattle²:

Duckwater Hills - Bull Creek/North Railroad	800 C	03/15-05/15	1631 AUMs ³
Private Lands		05/16-05/22	
Green Springs	800 C	05/23-06/20	763 AUMs ⁴
Forest Service Allotments and Monte Cristo Allotment		06/21-09/18	
Green Springs	335 C	09/19-09/30	132 AUMs ⁵
Private Lands		10/01-11/14	
Duckwater Hills-Bull Creek/North Railroad	330 C	11/15-01/31	846 AUMs
Bull Creek Corner/Poison Patch	322 C	11/15-01/31	826 AUMs
Pancake East Bench/Duckwater Valley	43 C	11/15-01/31	111 AUMs
Private Lands		02/01-02/14	
Duckwater Hills-Bull Creek/North Railroad	400 C	02/15-03/14	368 AUMs ⁶
Pancake East Bench/Duckwater Valley	400 C	02/15-03/14	368 AUMs ⁷

² It is understood that the BLM Use Areas are unfenced and that drift may occur. The applicable sections of pages 14-16 of the Decision are also revised to reflect these AUM levels in these Use Areas.

³ Livestock will be gathered into Bull Creek Private before going from Duckwater Hills-Bull Creek/North Railroad, into Green Springs Use Area. Duckwater Cattle Company will have 7 days to gather off the earlier use area, during which time (approximately one week) the cattle will be held on the private lands at Bull Creek.

⁴ When cattle are removed from Green Springs, they are taken to Green Springs Private Lands. Trail permits will be authorized annually following this use period, over and above the Active Preference, to drive the cattle from Green Springs Private, through Green Springs, to the Monte Cristo Allotment and from Green Springs Private south to private lands at Duckwater. Each drive will take no more than one day.

⁵ The 09/19-09/30 timeframe is that in which cattle are gathered off the Forest and off Monte Cristo Allotment, bunched, and removed to private lands. Within this total timeframe, any one group of cattle will not be in the area more than five days. Therefore the computation of AUMs is for 800 cattle for 5 days. Trail permits will be authorized, generally between 09/20 and 10/10 annually, over and above the Active Preference, for active cattle drives from private lands at Bull Creek to private lands at Duckwater. The average trail time for any one group of cattle will be no more than one day.

⁶ During this time, cattle will be fed full daily forage requirements of hay and supplement on unfenced private lands adjacent to the home ranch. Cattle will be authorized access to public lands on an Exchange of Use basis, to lounge and spread out on drier ground. If full daily requirements are not fed during this time, this authorization will be canceled. Beginning 03/07 and through 03/22, cattle will be phased off these areas in bunches of 100 to 300, and will be distributed to spring use areas on Duckwater Hills-Bull Creek/North Railroad Use Area.

⁷ See Footnote 6.

2. The section of Page 16 of the Decision titled "Broom Canyon/South Railroad Valley Use Area" is modified to add item 5, as follows:

"5. The Use Area line separating the Broom Canyon/South Railroad Valley Use Area from the Duckwater Hills-Bull Creek/North Railroad Valley Use Area is recognized to be the approximate line shown on the attached EXHIBIT 1. This line change is to account for 257 AUMs of Duckwater Cattle Company use in Broom Canyon/South Railroad Valley being shifted to the Duckwater Hills-Bull Creek/North Railroad Valley Use Area, and is to be formalized with a fence, after the construction of which John and Gailin Manzonie and Manzonie Irrevocable Trust shall have no use north of this line, and Duckwater Cattle Company shall have no use south of this line."

3. The section of Page 17 of the Decision titled "Bull Creek, North Railroad Valley Use Area" is modified to replace item 1, which begins with "Spring cattle turnout..." and ends with "...turnout date", with:

"1. The Duckwater Hills and the Bull Creek/North Railroad Areas of use will be managed as one unit, as it applies to Duckwater Cattle Company. Cattle will be widely distributed throughout the pasture, including to agreed-upon water haul sites. During the spring use period, they will not be permitted to use within one mile of the unfenced private lands which are under Exchange of Use from 02/15-03/14. Birch Spring will be cooperatively developed, consistent with law, by the Bureau of Land Management and Duckwater Cattle Company to provide additional water at least two miles from the location of the spring. Water haul locations in the northern and northeastern portion of this Use Area will be used to help distribute livestock during the spring period. Riding to keep cattle distributed will be accomplished every two to three days. Rangeland monitoring will be conducted for two years, and progress toward meeting land use plan objectives will be evaluated at that time. If significant progress toward meeting land use plan objectives is not accomplished in that time, spring cattle turnout in this area will be deferred the first year after the evaluation and every third year thereafter from 03/01 to 04/30, and alternative turnout areas in the deferred year will be selected."

4. The section of Page 17 and 18 of the Decision titled "Bull Creek Corner/Poison Patch Use Area" is modified to add item 7, as follows:

"7. Water Hauling will occur by Duckwater Cattle Company at agreed-upon suitable locations, from 11/15-12/31, tentatively identified as Section 5, T15N, R56E; Section 32, T14N, R56E; and/or Section 22, 28, and 34, T15N, R56E. Additional sites may be identified through coordination, cooperation, and consultation by the BLM with Duckwater Cattle Company in future years. It is recognized that not all water haul sites will necessarily be used at any one point in time during each year, and locations used in any year may vary, to facilitate livestock distribution."

5. The section of Page 18 of the Decision titled "Duckwater Hills Use Area" is modified to replace item 1, which begins with "Spring cattle turnout..." and ends with "...growing period", with:

"1. The Duckwater Hills and the Bull Creek/North Railroad Areas of use will be managed as one unit, as it applies to Duckwater Cattle Company. As it applies to Duckwater Cattle Company, cattle will be widely distributed throughout the pasture, including to agreed-upon water haul sites. During the spring use period, they will not be permitted to use within one mile of the unfenced private lands adjacent to the home ranch which are under Exchange of Use from 02/15-03/14. Birch Spring will be cooperatively developed, consistent with law, by the Bureau of Land Management and Duckwater Cattle Company to provide additional water at least two miles from the location of the spring. Water haul locations in the northern and northeastern portion of this Use Area will be used to help distribute livestock during the spring period. Riding to keep cattle distributed will be accomplished every two to three days. Rangeland monitoring will be conducted for two years, and progress toward meeting land use plan objectives will be evaluated at that time. If significant progress toward meeting land use plan objectives is not accomplished in that time, spring cattle turnout in this area will be deferred the first year after the evaluation and every third year thereafter from 03/01 to 04/30, and alternative turnout areas in the deferred year will be selected."

6. The section of Page 18 of the Decision titled "Green Springs Use Area" is modified to add item 3, as follows:

"3. Water will be hauled by Duckwater Cattle Company during the period of 5/15 - 6/20 each year, to sites within two miles of the northern boundary with Monte Cristo Allotment. Specific sites will be identified through coordination, cooperation, and consultation by the BLM with Duckwater Cattle Company prior to 5/1/96. It is recognized that not all water haul sites will necessarily be used at any one point in time during each year, and locations used in any year may vary, to facilitate livestock distribution."

7. The section of Page 31 of the Decision titled "2. Rangeland Program Summary Objectives," beginning with "Range..." and ending with "...species are 50%", is modified to read:

"Livestock Management Objectives 11/:

Provide forage for up to 16,274 AUM's of livestock use. Improve the ecological condition of Sand Springs Valley; maintain or improve current ecological condition of remainder of native range. Improve livestock distribution throughout the allotment. Keep utilization of winterfat at 50% maximum and not exceeding NRMH levels on key species. 12/ Provide for improved administration of the allotment."

and is further modified to add:

"As it pertains to the Duckwater Cattle Company Areas of Use, desired utilization on a Use Area-wide basis is 50% for winterfat, 50% for key

perennial grasses in any use period between March 1 and June 20, and 60% for key perennial grasses between June 20 and the start of the next growing season, except that desired utilization for perennial grasses in the Duckwater Hills-Bull Creek/North Railroad Valley Use Area is 40% by May 15, and 60% after that time. This does not intend to prohibit consideration of management actions which may be necessary to adjust use patterns. Key perennial grasses in all use areas are Indian ricegrass and Needle-and-thread. Utilization will be measured at the end of the grazing period or the end of the growing period, whichever occurs later."

If this stipulation of dismissal is canceled or modified by the Office of Hearings and Appeals based upon the application of any party, then the appeal in the above titled action by the appellant shall be heard as if the stipulation of dismissal had not occurred. The BLM is not impaired from making future changes in management of the Duckwater Allotment consistent with law and monitoring supported by rangeland studies conducted over time.

4/5/96
Date

Alan L. Forsgren
Alan L. Forsgren
Duckwater Cattle Co.
Appellant

4-5-96
Date

Gene L. Drais
Gene L. Drais
Bureau of Land Management
Respondent

4/4/96
Date

W. Alan Schroeder
W. Alan Schroeder
Attorney for Appellant

4-10-96
Date

Bruce Hill
Bruce Hill
Attorney for Respondent